

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER UNDER REGULATION 16(5) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY REGULATIONS), 2002 AGAINST M/S.HOME TRADE LTD, ESRTWHILE MEMBER OF NATIONAL STOCK EXCHANGE AND STOCK EXCHANGE, MUMBAI, WITH SEBI REGISTRATION NUMBER INB 230624638 & INB 010624639.

1. M/s.Home Trade Ltd.(hereinafter called as "the broker" was a member of National Stock Exchange and Stock Exchange ,Mumbai (hereinafter called as "NSE" and "BSE") and registered with the Securities and Exchange Board of India (hereinafter referred to as "SEBI") having registered office at Tower 4, 5th International Infotech Park, Vashi Station Complex, Navi Mumbai-400703.,under certificate of registration No.INB 230624638 and INB 010624639 respectively .

2. It has been brought to the notice of SEBI that the broker was declared a defaulter by NSE on October 1st, 2002 and BSE on August 13th, 2002 and was not readmitted. An enquiry officer was therefore appointed vide order of the member dated March 16th, 2004 to conduct enquiry against the noticee in terms of Regulation 16(1) read with Regulation 15(C) of chapter III of the SEBI (procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002(hereinafter called as Enquiry Regulation). The enquiry officer submitted his report dated May 20, 2004 under regulation 16(3) of SEBI (Procedure for holding enquiry by the enquiry officer and imposing penalty) recommending the cancellation of the registration of the broker.

3. I have considered the facts of the matter, report of the Enquiry Officer and other material on record. I note that adequate opportunity had been given to the said broker in terms of Regulation 16 of the Enquiry Regulations. I have noted that the show cause notices were issued by the enquiry officer through NSE and BSE. The said show cause notices were sent to NSE and BSE vide letters, dated March 26, 2004 for causing to serve it to the broker. NSE vide letter dated April 8, 2004 returned the show cause notice as it was returned undelivered from the last known address. BSE vide letter dated May 12th 2004, also returned the show cause notice, stating that it could not be served though all efforts were made. Therefore, I am satisfied that the requirements of natural justice have been fulfilled and I proceed further in the matter.

4. The enquiry officer observed that the member ceased to be a member of both the NSE and BSE stock exchange with effect from October 1, 2002 and August 13, 2002 respectively and had not been readmitted to the membership of the stock exchange thereafter in terms of the byelaws of the stock exchange.

5. Regulation 27 of SEBI (Stock –brokers &sub-brokers-liability for action under the enquiry proceeding regulation) provides that

A stock broker or a sub-broker shall be liable for action as specified in the securities and exchange board of India (procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 including suspension or cancellation of certificate of registration as a stock broker or a sub-broker, as the case may be, if he –

- i) ceases to be a member of a stock exchange; or
- ii) has been declared defaulter by a stock exchange and not readmitted as a member within a period of six months.

6. I agree with the findings of the Enquiry Officer and find that the said broker ceased to comply with one of the conditions subject to which registration had been granted to him viz. that he shall be a member of a recognized stock exchange. I therefore find that the said broker has failed to comply with basic requirement of being a member of a stock exchange, basing on which the registration is granted. Therefore, the registration of the broker is liable to be cancelled.

7. I further note that Regulation 13(1) (b) provides for major penalties which include cancellation of certificate of registration. In this regard, I note that in terms of Regulation 15(c) of the Enquiry Regulations it is not necessary to hold an enquiry under the provisions of Regulation 13 where a stock broker ceases to be a member of a recognized stock exchange or has been declared defaulter in relation to the transactions at such exchange, rather, summary procedure under Regulation 16 may be followed. However, Regulation 13(6) of the Enquiry Regulations provides that the Board or member may impose major penalties where the intermediary is guilty of violation of conditions of registration.

8. Therefore, in exercise of powers conferred upon me under Section 19 of the SEBI Act read with Regulation 16(5) of the Enquiry Regulations, I hereby cancel the certificate of registration bearing No. INB 230624638 and INB 010624639 granted to M/s. Home Trade Ltd. This order shall come into effect immediately.

Date : June 30, 2004
Place : MUMBAI

T.M.NAGARAJAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA